

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

BETTY R. KYLES

Claimant

VS.

HALLMARK CARDS, INC.

Respondent

Self-Insured

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Docket No. 210,553

ORDER

Respondent requested Appeals Board review of Administrative Law Judge Floyd V. Palmer's preliminary hearing Order for Medical Treatment dated April 16, 1998.

ISSUES

The Administrative Law Judge granted claimant's request to appoint Lynn D. Ketchum, M.D., of Overland Park, Kansas, as claimant's authorized treating physician. Respondent appealed that order and contends the Administrative Law Judge exceeded his jurisdiction in designating Lynn D. Ketchum, M.D., as the authorized treating physician without allowing respondent to provide a list of three physicians as required by K.S.A. 44-510(c)(1).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the preliminary hearing record and considering the briefs of the parties, the Appeals Board finds as follows:

Claimant contends the Appeals Board does not have jurisdiction to review the issue raised by the respondent. Claimant argues the Administrative Law Judge did not exceed his jurisdiction because the preliminary hearing statute, K.S.A. 1997 Supp. 44-534a, specifically authorizes the Administrative Law Judge to make a preliminary award for medical compensation pending a full hearing on the claim.

The Appeals Board agrees with the claimant and also finds the issue raised by the respondent is not a jurisdictional issue. The Appeals Board is, therefore, not authorized to review the preliminary hearing order at this stage of the proceedings. The Appeals Board has previously decided this issue many times including the case of Rayman v. Spears Manufacturing, Docket No. 213,649 (May 1997). The Appeals Board finds it is not necessary to repeat the findings and conclusions contained in the Rayman Order. Therefore, the Appeals Board adopts those findings and conclusions as if specifically set forth herein.

WHEREFORE, the Appeals Board finds and concludes that the application for Appeals Board review filed by the respondent should be dismissed as the Appeals Board is without jurisdiction to consider the issue raised, and the preliminary hearing Order for Medical Treatment dated April 16, 1998, should, and does remain in effect as originally entered.

IT IS SO ORDERED.

Dated this ____ day of May 1998.

BOARD MEMBER

c: John J. Bryan, Topeka, KS
John David Jurcyk, Lenexa, KS
Administrative Law Judge, Topeka, KS
Philip S. Harness, Director